

May 8, 2006

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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

May 9, 2006 (7:47am)

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)	
)	
ENTERGY NUCLEAR VERMONT)	Docket No. 50-271
YANKEE, LLC and ENTERGY)	
NUCLEAR OPERATIONS, INC.)	ASLBP No. 04-832-02-OLA
(Vermont Yankee Nuclear Power Station))	(Operating License Amendment)
)	

**JOINT MOTION TO SUSPEND FILING AND DISCOVERY OBLIGATIONS ON
DEPARTMENT OF PUBLIC SERVICE CONTENTIONS**

Pursuant to 10 CFR §2.323(b), Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively Entergy), the Vermont Department of Public Service (the DPS), and the Nuclear Regulatory Commission Staff (NRC Staff) (“the moving parties”) request that the Atomic Safety and Licensing Board (“Board”) suspend all discovery obligations with respect to the admitted DPS contentions herein (DPS Contentions 1 and 2) and the requirement that parties file, on or before May 17, 2006, initial written statements of position and written testimony with supporting affidavits pursuant to 10 C.F.R. § 2.1207(a)(1) with respect to the DPS contentions. See Revised Scheduling Order (April 13, 2006) at 3.

In support of their joint motion, the moving parties state that the DPS filed on May 2, 2006, a “Notice of Withdrawal and Request for Dismissal of Contentions of the Vermont Department of Public Service” (“Notice of Withdrawal”) in which the DPS voluntarily withdrew from this proceeding and requested the dismissal with prejudice of its admitted contentions. The DPS will file on May 9, 2006 an “Amended Notice of Withdrawal and Request for Dismissal of the Contentions of the Vermont Department of Public Service” (“Amended Notice of Withdrawal”), seeking essentially the same relief. The DPS and Entergy have agreed to an Addendum to the MOU to conform it to the requirements of 10 C.F.R. § 2.338 (h), and that

Addendum will be filed with the original MOU and the Amended Notice of Withdrawal. Since withdrawal of an intervenor eliminates the withdrawing party's contentions from litigation, Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), ALAB-799, 21 NRC 360, 362 (1985)¹, upon dismissal of the DPS's contentions the parties' discovery and filings under 10 C.F.R. § 2.1207(a)(1) would become moot.

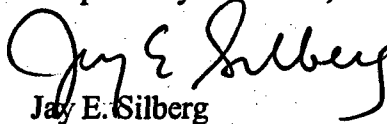
Until the signing of the Memorandum of Understanding attached to the Notice of Withdrawal, the moving parties were engaged in the development of written statements of position and testimony on the DPS contentions. Being relieved from the obligation to perform these activities would avoid potentially unnecessary efforts by the moving parties and would enable Entergy and the Staff to concentrate on their other obligations in this proceeding, to the potential benefit of the Board in its examination of the remaining issues.

For the reasons stated, the moving parties request that the Licensing Board suspend the discovery and testimony filing obligations regarding the DPS contentions, pending Board action on the dismissal of the DPS contentions.²

¹ On February 16, 2005, the Board denied NEC's motion to incorporate the DPS contentions by reference (which the Board treated as a motion to adopt the contentions). See Memorandum and Order (Denying Incorporation by Reference and Additional Discovery Disclosure) (February 16, 2005).

² Intervenor New England Coalition ("NEC") is not a party to this motion since it is not a participant in the litigation of the DPS contentions. See footnote 1 above. Counsel for Entergy certifies that he discussed the motion with NEC's representative Mr. Shadis in an attempt to resolve the issue raised by the motion. Mr. Shadis indicated that NEC would oppose the motion and intends to ask the Board for a ten day period (i.e., until May 19, 2006) in which to respond. Counsel for Entergy pointed out to Mr. Shadis that the proposed May 19 response date was beyond the current due date for submissions on the DPS contentions.

Respectfully submitted,



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Dated this 8th day of May 2006.

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NUCLEAR REGULATORY COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Joint Motion to Suspend Filing and Discovery Obligations on Department of Public Service Contentions" were served on the persons listed below by deposit in the U.S. mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 8st day of May, 2006.

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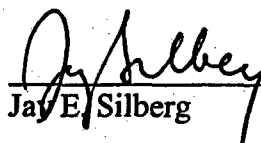
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